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DEPARTMENT OF COMMERCE
International Trade Administration
[A-520-803]

Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from the United Arab Emirates (UAE). This review covers the respondent, JBF RAK LLC (JBF), a producer and exporter of PET Film from the UAE. The Department preliminarily determines that sales of PET Film from the UAE have been made below normal value (NV) during the November 1, 2009, through October 31, 2010, period of review. The preliminary results are listed below in the section titled “Preliminary Results of Review.” Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: [Insert the date of the publication of the Federal Register].

FOR FURTHER INFORMATION CONTACT: Andrew Huston, or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S.

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SUPPLEMENTARY INFORMATION:

Background

On November 10, 2008, the Department published in the Federal Register the antidumping duty order on PET Film from the UAE. See Polyethylene Terephthalate Film,

Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (November 10, 2008) (Order). On November 1, 2010, the Department published a notice of opportunity to request an administrative review of the Order. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 75 FR 67079 (November 1, 2010). In response, on November 29, 2010, JBF requested that the Department conduct an administrative review of its sales of PET Film in the U.S. market.

On December 28, 2010, the Department initiated an administrative review of JBF. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 75 FR 81565, 81570 (December 28, 2010). On January 27, 2011, the Department issued an antidumping duty questionnaire to JBF. On April 6, 2011, JBF requested a 10 day extension to submit reconciliation information required by Sections B, C, and D of the initial questionnaire, which the Department approved by letter on the same date. JBF timely submitted its response to Section A of the questionnaire on March 10, 2011, its response to Sections B, C, and D on April 11, 2011, and the reconciliation information on April 21, 2011. On May 20, 2011, the Department issued a supplemental questionnaire to JBF, to which JBF timely responded on June 3, 2011.

On June 20, 2011, JBF submitted information requested by the Department regarding its submissions to United States Customs and Border Protection (CBP). On July 22, 2011, the Department issued a second supplemental questionnaire. JBF submitted its timely response to the second supplemental questionnaire on August 22, 2011. On July 29, 2011, the Department extended the time period for issuing the preliminary results of this administrative review. See

Polyethylene Terephthalate Film, Sheet and Strip From the United Arab Emirates: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 76 FR 45508

(July 29, 2011). On September 23, 2011, the Department issued a third supplemental questionnaire, to which JBF submitted its timely response on October 11, 2011.

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed polyethylene terephthalate film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Period of Review

The period of review (POR) is November 1, 2009, through October 31, 2010.

Comparisons to Normal Value

To determine whether sales of PET Film were made at less than NV, we compared JBF's sales, which were all export price (EP) sales, made to unaffiliated customers in the United States to NV, as described below in the "Normal Value" section of this notice. In accordance with section 777A(d)(2) of the Act, we compared the EP of individual transactions to monthly weighted-average NVs.

Product Comparisons

Pursuant to section 771(16) of the Act, we determined products sold by JBF, as described in the “Scope of the Order” section, above, and sold in the UAE during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on five criteria to match U.S. sales of subject merchandise to comparison-market sales: grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed above.

In its first questionnaire response, JBF recommended two changes to our model matching criteria based on surface treatment. First, JBF proposed that the ranking values for surface treatment should be weighted to ensure that certain surface treatments are matched. We have not adopted this suggestion in the preliminary results. As a result of surface treatment being the least important characteristic in the ranking, the proposed change makes no difference in the matching, given that the preceding four factors (grade, specification, thickness, and thickness category) determine all matches. The Department, therefore, will not adopt this change, which would contradict the matching methodology used in the investigation, the previous review, and other PET Film cases. If JBF can demonstrate, subsequent to these preliminary results, that this change is justified based on the physical properties of surface treatments and that it would also affect matching, we will reexamine the suggested change to model matching criteria in the final results. We note in this regard that even if JBF’s proposed change affected our calculations, the current basis for its proposal is not detailed and relies only on a few brief assertions. Second, JBF recommended changing the ranking of values for surface treatment to account for a new

surface treatment which was not listed in the original questionnaire. JBF suggested this surface treatment be ranked between two existing categories with which it is most physically similar. Based on our analysis of the similarity of surface treatments, we have adopted JBF's suggestion to change the ranking of surface treatment values so that this new type of surface treatment will be matched to products with the most similar surface treatment, if identical matches are not available. See Memorandum to Mark Hoadley, "Preliminary Analysis for JBF RAK LLC," dated November 30, 2011, (JBF Analysis Memo) and attached SAS programs.

Arm's-Length Test

In this proceeding, JBF did not report sales to affiliates in the home market; therefore the arms length test was not necessary.

Level of Trade

To determine whether NV sales are at a different level of trade (LOT) than U.S. sales, we examine selling functions along the chain of distribution between the respondent and the unaffiliated customer for EP sales and between the respondent and the affiliated U.S. importer for CEP sales. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment pursuant to section 773(a)(7)(A) of the Act.

In implementing these principles, we examined information provided by JBF regarding the selling functions involved in its home market and U.S. sales, including a description of these selling functions, listed in Exhibit A-5 of JBF's March 10, 2011 submission. Our analysis revealed that there were not any significant differences in selling functions between different channels of distribution or customer types in either the home or U.S. markets. Therefore, we

preliminarily determine that JBF made all home-market sales at one level of trade. Moreover, we preliminarily determine that all home-market sales by JBF were made at the same level of trade as its U.S. sales. Accordingly, a LOT adjustment is not warranted.

Date of Sale

The Department will normally use invoice date, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if it better reflects the date on which the material terms of sale are established. See 19 CFR 351.401(i). For JBF, we preliminarily determine that no departure from our standard practice is warranted. JBF reported invoice date as date of sale, and the record does not indicate that material terms of sale are established at a later date or earlier date in the sales process.

Margin Calculation

Export Price

The Department based the price of all U.S. sales of subject merchandise by JBF on EP as defined in section 772(a) of the Act because the merchandise was sold by JBF to an unaffiliated purchaser in the United States before importation. We calculated EP based on the packed price to unaffiliated purchasers in the United States. See section 772(c) of the Act. We made adjustments to price for billing adjustments, where applicable, and deducted all movement expenses reported by JBF.

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, we compared the volume of respondent's

home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. In accordance with section 773(a)(1)(B) of the Act, and 19 CFR 351.404(b), because JBF's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we find that the home market was viable for comparison purposes.

B. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of JBF's cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative expenses, interest expenses, and home market packing costs. Details regarding calculation of COP, as well as other calculation detail can be found in the JBF Analysis Memo, and attached SAS programs.

C. Cost of Production Test

On a product-specific basis, we compared the revised COP figures to home market prices, net of applicable billing adjustments, discounts and rebates, movement charges, selling expenses, and packing, to determine whether home market sales had been made at prices below COP. In determining whether to disregard home market sales made at prices below COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade.

In accordance with section 773(b) of the Act, where less than 20 percent of a given product was sold at prices less than COP, we did not disregard any below-cost sales of that

product, because the below-cost sales were not made in “substantial quantities.” However, we disregarded the below-cost sales that: (1) have been made within an extended period of time (within six months to one year) in substantial quantities (20 percent or more), as defined by section 773(b)(2)(B) and (C) of the Act; and (2) were not made at prices which permit recovery of all costs within a reasonable period of time, as prescribed by section 773(b)(2)(D) of the Act. Accordingly, we determined to disregard certain of JBF’s sales in the determination of NV because (1) 20 percent or more of a given product was sold as prices less than COP and (2) based on our comparison of prices to weighted-average COP figured for the POR, they were made at prices that would not permit recovery of all costs within a reasonable period of time. We used the remaining home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Constructed Value

After disregarding certain sales as below cost, as described above, home market sales of contemporaneous identical and similar products existed that allowed for price-to-price comparisons for all margin calculations. Therefore, the Department did not need to rely on constructed value for any calculations for these preliminary results.

E. Price-to-Price Comparisons

We calculated NV based on packed prices to unaffiliated customers in the home market. We used JBF’s adjustments and deductions as reported. We made deductions, where appropriate, for foreign inland freight pursuant to section 773(a)(6)(B) of the Act. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In so doing, we made COS adjustments for the cost of providing samples to customers. Finally, we added U.S. packing costs and deducted

home market packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act, respectively.

Currency Conversions

Pursuant to section 773(A) of the Act and 19 CFR 351.415, we made currency conversions for JBF's sales based on the daily exchange rates in effect on the dates of the relevant U.S. sales as certified by the Federal Reserve Bank of New York.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margin exists for the period November 1, 2009, through October 31, 2010.

Manufacturer/Exporter	Weighted-Average Margin (percent)
JBF RAK LLC	3.46%

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For assessment purposes, where JBF reported the entered value for its sales, we calculated importer-specific (or customer-specific) ad valorem assessment rates based on the ratio of the total amount of the antidumping duties calculated for the examined sales to the total entered value of those same sales. See 19 CFR 351.212(b). However, where JBF did not report the entered value for its sales, we will calculate

importer-specific (or customer-specific) per unit duty assessment rates.¹ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above de minimis.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from the UAE entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company under review will be the rate established in the final results of this review (except, if the rate is zero or de minimis, i.e., less than 0.5 percent, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all others rate for this proceeding, 4.05 percent.² These deposit requirements, when imposed, shall remain in effect until further notice.

¹ JBF notified CBP in a “prior disclosure” letter that some entries of subject merchandise were misidentified as “free and dutiable” entries at the time of entry. These entries were not corrected by CBP as they had already been liquidated. JBF states in its letter to CBP that it will pay the entire amount of antidumping duties due on both correctly and incorrectly classified entries at the time the Department issues its liquidation instructions. A “prior disclosure” letter is provided for in CBP’s regulations (19 CFR 162.74). The letter allows importers to correct mistakes made during the entry process on their initiative, thus avoiding possible sanctions or penalties.

² See Order, 73 FR at 66597.

Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the Federal Register.³ If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Unless extended by the Department, interested parties must submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed not later than five days after the time limit for filing case briefs. See 19 CFR 351.309(c) and (d) (additional discussion on case briefs and rebuttal briefs, respectively). Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Executive summaries should be limited to five pages total, including footnotes.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the Federal Register, unless otherwise extended. See section 751(a)(3)(A) of the Act.

³ See 19 CFR 351.309(c); Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. See <https://iaaccess.trade.gov/help/IA%20ACCESS%20User%20Guide.pdf>.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

_November 30, 2011_____

Date

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